

1 Q Okay. And a month earlier, in
2 December 2005, the WSIPP made a related
3 report, and that report had said the following
4 quote, "The notification levels determined by
5 the End of Sentence Review Committee do not
6 classify sex offenders into groups that
7 accurately reflect their risk for re-
8 offending;" is that correct?

9 A I believe it is, yes.

10 Q So is it fair to say that the
11 WSIPP studied the WASOST and found it wanting
12 in at least two ways?

13 A They did find the procedures
14 wanting in a number of ways.

15 Q Okay. And the notification, it
16 found that the notification and assessment
17 scores have little or no accuracy in
18 predicting recidivism and that the
19 notification levels did not classify offenders
20 into groups that accurately reflect their risk
21 of re-offending, correct?

22 A That's what they said, yes.

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1 MR. KNOWLES-KELLETT: Your Honor,
2 I'd like to continue my objection. If he's
3 going to read to the witness, I'd like the
4 source.

5 MR. LYON: May I?

6 JUDGE SIPPEL: Yes, please.

7 MR. LYON: And, your Honor, if I
8 could, I'd like to have this document marked
9 as Titus Exhibit 16.

10 JUDGE SIPPEL: Identify it,
11 please.

12 MR. LYON: Yes. It is the
13 Washington Offender Sentencing, I'm sorry, Sex
14 Offender Sentencing in Washington State:
15 Notification Levels and Recidivism dated
16 December 2004, and it is a four-page document.
17 And I am handing two copies to the reporter.
18 I am amazed that I actually had enough.

19 (Whereupon, the above-referred to
20 document was marked as Titus
21 Exhibit No. 16 for
22 identification.)

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1 JUDGE SIPPEL: That document will
2 be so identified. Do I have a copy?

3 MR. LYON: Yes. It's on your --

4 JUDGE SIPPEL: Here it is.

5 MR. LYON: Unfortunately, I don't.

6 JUDGE SIPPEL: Here it is.

7 MR. LYON: I'm actually giving you
8 guys my copies. And I'd like to have marked
9 as Titus Exhibit 17 -- am I right that I'm on
10 17 now?

11 JUDGE SIPPEL: That's correct.

12 MR. LYON: -- a document entitled
13 Sex Offender Sentencing in Washington State:
14 Sex Offender Risk Level Classification Tool
15 and Recidivism.

16 (Whereupon, the above-referred to
17 document was marked as Titus
18 Exhibit No. 17 for
19 identification.)

20 JUDGE SIPPEL: That's dated
21 January 2006?

22 MR. LYON: January 2006. And,

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1 unfortunately, it looks like I only made one
2 copy for the reporter, so I will have to make
3 another one or ask the Bureau if they could be
4 so kind to allow me to make an extra copy.

5 JUDGE SIPPEL: Identified, as
6 you've indicated, Titus Exhibit 16 and 17.
7 How many pages is 17?

8 MR. LYON: I believe there were
9 four pages, your Honor.

10 JUDGE SIPPEL: All right. You
11 want to move them?

12 MR. LYON: Yes, your Honor.

13 JUDGE SIPPEL: Any objection?

14 MR. KNOWLES-KELLETT: We haven't
15 had a chance to review these exhibits, your
16 Honor. Might I suggest it's a good time for
17 lunch?

18 JUDGE SIPPEL: No, I don't think
19 it's a good time for lunch.

20 MS. LANCASTER: It would give the
21 witness time, I think the witness needs the
22 opportunity to review a document that he's

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1 being questioned about, your Honor.

2 MR. LYON: I have only three
3 questions left, your Honor. I don't think the
4 witness needs to review it, but he's welcome
5 to.

6 JUDGE SIPPEL: If you want to wait
7 until after lunch to move --

8 MS. LANCASTER: I don't have a
9 copy.

10 JUDGE SIPPEL: Your associate has
11 one.

12 MS. LANCASTER: Yes, sir, but he's
13 --

14 MR. LYON: I will wait until after
15 lunch to --

16 JUDGE SIPPEL: All right.

17 MR. LYON: But I'd like to finish
18 my examination.

19 JUDGE SIPPEL: Yes, sir. Yes,
20 sir.

21 MR. KNOWLES-KELLETT: Detective
22 Shilling doesn't need time to review it?

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1 JUDGE SIPPEL: That's all right.
2 If he wants time to review it over lunch, he
3 can do so.

4 BY MR. LYON:

5 Q If you want to review this
6 document, you can. But my question is you
7 were aware of the findings in these reports
8 when you executed your testimony?

9 A Yes.

10 JUDGE SIPPEL: You want to see my
11 copies?

12 THE WITNESS: No, your Honor, I've
13 read them before.

14 JUDGE SIPPEL: All right.

15 BY MR. LYON:

16 Q And, yet, nowhere in your prepared
17 testimony do we find the reference to these
18 findings?

19 A That's because I am required by
20 Washington State law to use that tool.
21 Whether anybody likes it or not, that is the
22 tool that Washington State law says I must

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1 use. And until that law is changed, I am
2 required by law to use that.

3 Q So you didn't overlook those
4 findings. You believe that you were not
5 required to, you believe that Washington State
6 -- strike that question. Do you think that
7 the FCC should have been made aware of these
8 findings of the lack of validity of the tools
9 with which you assessed Mr. Titus?

10 A I don't believe it's my job to say
11 whether the tool is valid or not. I'm
12 required by law to use that tool, and that's
13 what I have to use.

14 Q Even if you think it's worthless?

15 MS. LANCASTER: Objection, your
16 Honor. I don't believe there was any
17 testimony that he think it's worthless.

18 JUDGE SIPPEL: I'll sustain the
19 objection.

20 BY MR. LYON:

21 Q Even if you think it's invalid?

22 A I don't think it's invalid. I

1 think it is a tool. I don't think it's the
2 best tool available, but it is still a tool.
3 When you take a look, as I testified earlier,
4 at the totality of the circumstances, when you
5 take a look at the RRASOR, when you take a
6 look at the MSOST, when you take a look at
7 other variables, I think that it is just that:
8 a tool.

9 Q WSIPP took a look at the tool,
10 including the MSOST and the RRASOR, and found
11 it wanting, right?

12 A Yes, they did.

13 MR. LYON: No further questions.

14 JUDGE SIPPEL: Redirect? Do you
15 have much to redirect on?

16 MR. KNOWLES-KELLETT: No. Not,
17 you know --

18 JUDGE SIPPEL: How long do you
19 think it will take?

20 MR. KNOWLES-KELLETT: I'd hope to
21 be done by 1:00. I'm not sure if I'll be.

22 JUDGE SIPPEL: I think we better

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1 take a recess. It's 25 after 12.

2 MR. LYON: Any chance we could
3 come back at one? I'm just concerned that we
4 be able to finish up today, if possible.

5 JUDGE SIPPEL: We'll come back at
6 1:15. How's that?

7 MR. KNOWLES-KELLETT: That's fine
8 with me. 1:15 is fine with me.

9 JUDGE SIPPEL: All right?

10 MR. LYON: I eat fast.

11 MS. LANCASTER: Well, just getting
12 your food may take -- at lunch time, getting
13 your food --

14 JUDGE SIPPEL: We're going to come
15 back at 1:30. We're taking an hour for lunch.

16 MS. LANCASTER: It has nothing to
17 do with eating.

18 MR. LYON: David, could you call
19 Dr. Allmon and delay him until 11:00?

20 MR. TITUS: Yes.

21 MR. LYON: I'm sure he'll be
22 overjoyed. He didn't want to get up this

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1 early anyway.

2 JUDGE SIPPEL: I was going to say
3 that better be tomorrow and not tonight.

4 MS. LANCASTER: It's this morning,
5 their time, your Honor.

6 JUDGE SIPPEL: Oh, I see. Okay.
7 Three hours, yes.

8 MR. LYON: All right. Thank you.

9 JUDGE SIPPEL: Okay. Mr. Titus,
10 you can go get lunch. We're going to be back
11 in an hour.

12 (Whereupon, the foregoing matter
13 went off the record at 12:22 p.m. and went
14 back on the record at 1:35 p.m.)

15 MR. LYON: Should I move 16 and 17
16 into evidence at this point?

17 MR. KNOWLES-KELLETT: No
18 objection, your Honor.

19 JUDGE SIPPEL: They're received.
20 Sixteen and seventeen have been marked,
21 identified, and received.

22 (Whereupon, Titus Exhibit Nos. 16

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1 and 17 were received into
2 evidence.)

3 MR. KNOWLES-KELLETT: As another
4 preliminary matter, your Honor, I'd like to
5 move to accept Detective Shilling as an expert
6 on the matters of sex offender management.
7 I'm happy to do any voir dire, if necessary.
8 I think in light of Mr. Lyon's questions, it's
9 very clear that he has substantial expertise
10 that will aid in the Court in this, and he may
11 even want to stipulate that he's an expert.

12 JUDGE SIPPEL: Any objection?

13 MR. LYON: Can I reserve my
14 objection until I hear the voir dire?

15 MS. LANCASTER: Oh, you want us to
16 do -- no problem. We thought you would want
17 to save time, but no problem.

18 MR. LYON: I do like to save time.

19 JUDGE SIPPEL: That's all right.
20 Go right ahead. You go ahead. It won't take
21 long.

22 JUDGE SIPPEL: Do you understand

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1 what he's doing?

2 THE WITNESS: I do, your Honor.

3 JUDGE SIPPEL: Okay.

4 VOIR DIRE EXAMINATION

5 BY MR. KNOWLES-KELLETT:

6 Q Detective Shilling, have you
7 testified as an expert in any previous trials?

8 A I have.

9 Q How many trials approximately?

10 A Approximately eight.

11 Q Okay. Have you ever had your
12 opinion rejected in any trial?

13 A I have not.

14 Q Okay. Have you testified on
15 behalf of the prosecution in any of those
16 trials?

17 A Yes, I have.

18 Q Have you testified on behalf of
19 the defense in any of those trials?

20 A Yes, I have.

21 Q How long have you been involved in
22 sex offender management?

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1 A Since 1990.

2 Q Okay. Could you describe your
3 experiences with respect to your employment
4 with respect to sex offender management?

5 A Can I go to my curriculum vitae?

6 Q I'd appreciate it if you would.
7 If you could explain that to us and then point
8 to any pertinent parts as you go through it.

9 MR. LYON: Can we go off the
10 record for one second?

11 JUDGE SIPPEL: Off the record.

12 (Whereupon, the foregoing matter
13 went off the record at 1:37 p.m. and went back
14 on the record at 1:41 p.m.)

15 MS. LANCASTER: Ask him for his
16 definition of what he thinks his expertise is.

17 BY MR. KNOWLES-KELLETT:

18 Q Okay. Detective Shilling, could
19 you explain to us what you think your areas of
20 expertise to the extent that you've testified
21 as an expert on sex offender management.

22 JUDGE SIPPEL: In all the cases?

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1 MS. LANCASTER: He's been
2 recognized in other cases as an expert.

3 JUDGE SIPPEL: Yes, I understand
4 that.

5 MR. KNOWLES-KELLETT: In other
6 cases.

7 JUDGE SIPPEL: You're limiting to
8 a lot of the cases. Go ahead.

9 THE WITNESS: In other cases in
10 Washington State, I've been recognized as an
11 expert in community notification, community
12 education, sex offender registration, and the
13 management of sex offenders in the community.

14 BY MR. KNOWLES-KELLETT:

15 Q Have they recognized your
16 expertise in using the actuarial tools to
17 assess risk?

18 A Only the WASOST.

19 Q Okay.

20 MS. LANCASTER: I thought the
21 RRASOR.

22 BY MR. KNOWLES-KELLETT:

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1 Q And the RRASOR?

2 A Well, that's part of the --

3 MR. KNOWLES-KELLETT: With that
4 definition, are we finished?

5 MR. LYON: Sure. I have no
6 objection to expert testimony in those areas.

7 JUDGE SIPPEL: All right. On the
8 basis of the stipulation of counsel, the
9 witness is declared hereby to be an expert in
10 those one, two, three, four, five specific
11 areas: community notification, community
12 education, sex offender registration. I had
13 community notification twice for some reason.
14 And then the WASOST, the tools of that
15 procedure for determining --

16 MR. KNOWLES-KELLETT: The
17 Washington State Sex Offender Assessment Tool.

18 JUDGE SIPPEL: Right.

19 THE WITNESS: And in the
20 management of sex offenders in the community.

21 JUDGE SIPPEL: Oh, the management.
22 That's what I had. The notification and

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1 management. Okay. All right.

2 REDIRECT EXAMINATION

3 BY MR. KNOWLES-KELLETT:

4 Q Okay. Secondly, Detective
5 Shilling, you testified about Dr. Natalie
6 Novick-Brown. Do you know if any court has
7 rejected her opinion for ethical problems?

8 A Yes.

9 Q Okay. Yes, you know; or yes, you
10 have?

11 A Yes, I do know that a court in
12 Florida rejected her testimony based on
13 ethical problems.

14 Q Okay.

15 MR. KNOWLES-KELLETT: Your Honor,
16 have you read Dr. Brown's testimony?

17 JUDGE SIPPEL: No, not yet.

18 MR. KNOWLES-KELLETT: We'd ask
19 that you disregard the testimony until the
20 witness is offered and we have a chance to
21 check her credibility.

22 MR. LYON: Your Honor, the witness

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1 hasn't been offered at this point.

2 JUDGE SIPPEL: Well, that's why I
3 haven't read the testimony. I'm only doing
4 what I have to do. Okay, let's go, let's go.

5 BY MR. KNOWLES-KELLETT:

6 Q Detective Shilling, do you
7 remember a line of questions that Mr. Lyon
8 asked you about whether or not you would
9 prevent Mr. Titus to ride the bus, go to a
10 grocery store, go to the library, go to
11 restaurants?

12 A Yes.

13 Q Could you explain what is meant by
14 the term "grooming?"

15 A When you talk about grooming,
16 you're talking about a behavior that sex
17 offenders use to gain the support or
18 compliance of victims before they are actually
19 victimized. For example, some sex offenders
20 who, let's say, babysit end up giving the
21 child gifts. And it's not strictly limited to
22 children either. I mean, they also are

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1 grooming the parents at the same time, you
2 know, having the parents thing that, gee, this
3 is really a great guy; he's okay to watch my
4 children; he seems really interested in my
5 child; he takes my child to outings, to the
6 ballpark. Then they start getting into buying
7 them gifts. Then they start getting into
8 keeping secrets. And once they get into the
9 keeping secrets part, then they get into
10 actual touching of the child. This can be
11 something that happens quickly, but generally
12 it's something that goes for a long time.

13 Q So when you're grooming, is the
14 initial contact normally an overt sexual
15 contact?

16 A No, absolutely not. It's usually
17 something that is real innocuous that, you
18 know, people would think, wow, this is a nice
19 guy.

20 Q Okay. In terms of the bus, the
21 grocery store, the restaurant, when you're
22 making choices about whether to exclude or

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1 include sex offenders, do you have a term that
2 you call that?

3 A Risk management.

4 Q Okay. Could you explain what you
5 mean by risk management?

6 A Well, risk management is knowing
7 that a sex offender poses a certain risk to a
8 certain population within the community. And
9 if that is children under the age of 12 then
10 you are going to exclude them from things
11 where you would find children under the age of
12 12. If it happens to be teenagers, you would
13 exclude them from things where they happen to
14 involve teenagers.

15 Q Okay. If you had knowledge that a
16 sex offender was listening to the problems of
17 little children and taking time to teach them
18 whatever they want to know, would that give
19 you concern?

20 A Absolutely.

21 MR. LYON: Objection as to
22 relevance.

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1 JUDGE SIPPEL: And I'll sustain
2 that.

3 MR. KNOWLES-KELLETT: I'm reading
4 from the testimony about Mr. Titus' actions by
5 Anna Harris. This is her testimony regarding
6 Mr. Titus. I think it's totally relevant.

7 JUDGE SIPPEL: What exhibit is
8 that? Testimony?

9 MR. KNOWLES-KELLETT: Anna Harris.
10 It's Titus' mother. Second paragraph, seven
11 lines down.

12 JUDGE SIPPEL: Seven lines down?

13 MR. KNOWLES-KELLETT: Yes. "He
14 will listen to their little problems."

15 JUDGE SIPPEL: Well, you know, it
16 would have helped if you would have told that
17 to the witness. Here's what the mother said
18 about her son; is that right? That's
19 basically what you're asking him?

20 BY MR. KNOWLES-KELLETT:

21 Q Would it make any difference,
22 Detective Shilling, if I had told you the

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1 source; or if you learned that a sex offender
2 was doing that, would you be worried?

3 A Quite frankly, it doesn't make any
4 difference to me whether it's coming from --

5 THE WITNESS: You know, your
6 Honor, I apologize. They made me turn it on
7 when I went through the x-ray machine and to
8 see that it's an actual cell phone, and I
9 completely forgot to shut it off.

10 JUDGE SIPPEL: Let's talk to the
11 men at the gate. Why do they make you turn it
12 on? All right. Go ahead, let's go. Nice
13 tune.

14 MS. LANCASTER: That's what's so
15 funny to me, the tune.

16 THE WITNESS: It wouldn't make any
17 difference to me whether it was his mother
18 saying it or whether it was any citizens
19 saying it. The fact that you would have a sex
20 offender whose crimes were committed against
21 children, counseling children, that is a
22 problem. That is a high-risk area for them.

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1 A Well, it's different for all sex
2 offenders. I mean, it's how they operate,
3 what their method of operation is. You know,
4 do they, for example, let's just take a coach.
5 Are they taking a child and taking them aside
6 for personal assistance with baseball or
7 football, and, during that period of time, you
8 know, grooming them for an offense? That's
9 typically how it happens with coaches. Every
10 offender is different. They will approach a
11 sex offense, approach the way that they groom
12 a child much differently.

13 Q Okay. Going back to risk
14 management, do you view what you do as risk
15 management?

16 A Yes.

17 Q Okay. And what actions do you
18 take to help manage the risk of sex offenders?

19 A We do community notification. We
20 do community education meetings where we talk
21 to the community so that they're aware of what
22 the offense cycle is so they can help the eyes

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1 and ears for us. If they see something going
2 on in the community that is of concern or
3 matches that offense cycle, they can let us
4 know. When we do address verifications on the
5 offender, we're talking to the offender,
6 finding out how they're doing, are they
7 employed, are they doing all the things that
8 we feel that they should be doing to keep
9 themselves stable? We're looking to see if
10 they're involved in any kind of risky
11 situations. We have, at times, gone up to
12 somebody's door and found children's toys
13 inside the offender's home, but they don't
14 have children, so why would you have
15 children's toys inside your house? Those are
16 questions that we start asking. Depending on
17 the answer, we, you know, work on risk
18 assessment.

19 Q I think you testified previously
20 about at church, in response to Mr. Lyon,
21 correct me if I mis-characterized the
22 testimony, that in church, you want them to go

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1 to church but you don't want them to head up
2 the youth group. Is that the correct
3 characterization of the way you testified?

4 A Yes, it is. That's exactly what I
5 said.

6 Q Okay. Is that the community, is
7 that risk management?

8 A Yes, it is.

9 Q And who is doing the risk
10 management in that case?

11 A In that case, we would work with
12 the, in many cases it's the pastor of the
13 church or the elder of the church. We want to
14 make sure that the congregation knows of the
15 offender's history so that they know that this
16 is not a person that you leave alone with the
17 children or that you have them heading, you
18 know, one of the church groups. But we want
19 them to be supportive of their right to praise
20 their god.

21 Q If you were in charge of an
22 internet chat room, this is along the same

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